Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM E. BOEBERT, CLYDE O. ROGERS,
and GLENN ANDREAS

Appeal No. 2003-0985
Application No. 09/221,665

HEARD: December 11, 2003

Before BARRETT, GROSS, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-6, which are all the claims in the application.

We reverse.

BACKGROUND

The disclosed invention is directed to a system and method for secure transfer of data between a workstation connected to a private network and a remote computer connected to an unsecured network. A secure computer is inserted into the private network to serve as a gateway to the unsecured network. Representative claim 1 is reproduced below.

> 1. A system for transferring data between a workstation connected to an internal network and a remote computer connected to an external network, the system comprising:
>
> an internal network interface connected to the internal network;
>
> an external network interface connected to the external network, wherein the external network interface includes means for encrypting data to be transferred from the workstation to the remote computer; and
>
> means for establishing an assured pipeline between said internal network interface and said external network interface.

The examiner relies on the following reference:

Aziz	5,416,842	May 16, 1995 (filed Jun. 10, 1994)

Claims 1-6 stand rejected under 35 U.S.C. § 102 as being anticipated by Aziz.

We refer to the Final Rejection (Paper No. 8) and the Examiner's Answer (Paper No. 16) for a statement of the examiner's position and to the Brief (Paper No. 15) and the Reply Brief (Paper No. 18) for appellants' position with respect to the claims which stand rejected.

OPINION

The instant appeal turns on interpretation of the term "assured pipeline," recited in all the independent claims. According to the statement of the section 102 rejection over Aziz, the reference discloses an "assured pipeline" at column 4, line 40 through column 6, line 2. (Answer at 4 and 5.) According to appellants, however, the relevant term is described in the present application, "consistent with how assured pipelines are known in the industry." (Brief at 7.) Further, according to appellants, an "assured pipeline" enables placing external processes into external domains, and restricting traffic between domains. (See id.)

The examiner counters that Aziz teaches a means for establishing an "assured pipeline," in that the reference describes a firewall server coupled to a private network, acting as a gatekeeper. The server contains interfaces for encrypting and processing data traffic. (Answer at 6-7.) The examiner also opines that appellants' arguments regarding the steps required in establishing an assured pipeline are not recited in the claims, and limitations from the specification are not read into the claims. (Id. at 7.)

Appellants quote (Brief at 6) and rely upon a teaching in the instant specification. "The step of establishing an assured pipeline includes the steps of placing processes within domains, wherein the step of placing processes within domains includes the step of assigning processes received from the external network to an external domain, assigning types to files and restricting access by processes within the external domain to certain file types." (Spec. at 9, ll. 19-23.)

We agree with the examiner to the extent that the examiner may hold that the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. For example, details of the "assured pipeline" shown in instant Figure 5A, and described at page 25 et seq. of the specification, are exemplary, rather than definitional, and are not to be read into the claims. However, the above-noted page 9 section of the specification informs as to what an "assured pipeline" is -- i.e., what an assured pipeline requires for its establishment -- and thus aids us in ascertaining the meaning of the term. The relevant section may set forth a special meaning attributed by appellants, since it appears in the "Summary of the Invention" section of the disclosure. See In re Paulsen, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (repeating the principle that where an inventor chooses to be his own lexicographer and gives terms uncommon meanings, he must set out the uncommon definition in the patent disclosure); Beachcombers Int'l, Inc. v. WildeWood Creative Prods., Inc., 31 F.3d 1154, 1158, 31 USPQ2d 1653, 1656 (Fed. Cir. 1994) ("As we have repeatedly said, a patentee can be his own lexicographer provided the patentee's definition, to the extent it differs from the conventional definition, is clearly set forth in the specification.").

In any event, the examiner has not provided evidence that the relevant term, as understood by the artisan at the time of invention, had any meaning different from that expressed in the instant specification. We have, instead, the bare assertion that the firewall servers of Aziz establish assured pipelines, even though the reference does not say so. Nor does the reference describe placing processes within domains, assigning

processes received from an external network to an external domain, assigning types to files, and restricting access by processes within the external domain to certain file types, which, according to this record, is required in the establishment of assured pipelines.

We thus cannot sustain the section 102 rejection of claims 1 through 6.

A similar problem in claim interpretation is reflected in the examiner's apparent reading of a "trusted subsystem" as requiring no more than a firewall server having encrypting circuitry or software. (Answer at 9.) Since Aziz does not describe the systems as including trusted subsystems, the rejection must be based on the view that Aziz discloses circuitry or software that the artisan would recognize as comprising a trusted subsystem. However, the rejection does not provide evidence in support of the position, such as a relevant entry from a technical dictionary reflecting the artisan's understanding of the term. Cf. In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (in a determination of patentability "the Board must point to some concrete evidence in the record in support of...[the]...findings").

CONCLUSION

The rejection of claims 1-6 under 35 U.S.C. § 102 as being anticipated by Aziz is reversed.

REVERSED

LEE E. BARRETT Administrative Patent Judge	)
ANITA PELLMAN GROSS Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
HOWARD B. BLANKENSHIP Administrative Patent Judge	)

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